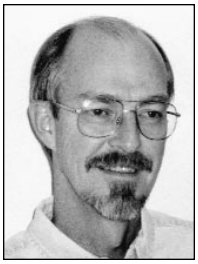
Eliminating the Pendulum Effect

A Balanced Approach to the Assessment, Treatment, and Management of Sexually Abusive Youth



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Policies governing the assessment, treatment, and management of sexually abusive youth have oscillated over the last 20 years, in a process described by Gail Ryan as the *pendulum effect*.[1] In the early eighties, society denied the existence of any problem regarding the sexual behavior of adolescents. Even abusive and criminal sexual behavior was dismissed or minimized to avoid labeling an adolescent as a sexual offender[2] or in the belief that deviant sexual behavior was due to experimentation or the normal aggressiveness of male adolescents.[3] This attitude led to a failure to identify, intervene early, and treat those adolescents who clearly posed a risk for future sexually abusive behavior both in adolescence and on into adulthood. It also prevented the identification of therapies aimed at interrupting the developmental trajectory of sexually abusive behavior during childhood and adolescence, when the opportunity to affect growth and development is greater.

Since the early eighties, professionals working with sexually abusive youth have succeeded in convincing parents, teachers, judges, and policymakers that the sexually abusive behavior of children and adolescents must be identified as such and responded to with early intervention and treatment. Perhaps we have done our job too well: the pendulum seems to have swung to the opposite extreme.[4] Public policy has forsaken rehabilitative measures for increasingly punitive ones, even as research regarding sexually abusive adolescents has increasingly called into question the old assumption "once a sex offender, always a sex offender." Policies and legislation supporting community registration and notification have been instituted and applied to juveniles as well as adults in response to high-profile cases that involved the most dangerous minority of the adult sex-offender population. The application of punitive policies to sexually abusive youth is driven more by fear and anger than by thoughtful reasoning based on empirical research.[5] No evidence currently available allows a determination whether such practices protect children or deter potential abusers.[6] Indeed, these policies, when instituted without differential consideration of each young offender's maturity or developmental stage, may well harm the children and adolescents involved and even increase the risk of subsequent abusive behavior.[7]

A new, more balanced approach is necessary. The 1993 *Revised Report From the National Task Force on Juvenile Sexual Offending* reflects the consensus of a national task force of experts.[8] The stated purpose of the report is to "articulate the current thinking about a comprehensive system's response to sexually abusive youth."[9] Addressing community protection in its first two assumptions, the report identifies the community as the "ultimate client." Community safety is described as taking "precedence over any other conflicting consideration, and ultimately, is in the best interest of the sexually abusive youth."[10] But community safety is only one of the important interests at issue. In the rush to protect our communities, we risk endangering the rights and welfare of our children. The struggle to find the proper balance is eloquently portrayed in the

The term *sex offender* tends to evoke in the public mind the high-risk offender who ends up in the headlines. Research with adult offenders has been used to convince the public and the courts that neither sexually abusive youth nor adult sexual offenders can be cured and that both remain in need of lifetime treatment strategies to prevent recidivism. However, recent research focusing on sexually abusive youth contradicts the assumption "once a sex offender, always a sex offender." In spite of this research, many of the laws and policies enacted to address the problem of sexually abusive youth are based on these old assumptions. This paper compares our old assumptions with the results of contemporary research. It then addresses the implications of this research for the risk assessment, treatment, and management of sexually abusive youth and discusses its implications for future public policy. ■

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following statement from Chaffin and Bonner's article "Don't Shoot, We're Your Children":

> To the extent that we can identify those truly at risk and work productively with them, our communities will be safer. But in the process, we should not forget that these are our children. And as professionals committed to children's rights and welfare, we should think carefully about their rights and welfare before responding to their behavior.[11]

With the swing of justice policy toward punitive measures, the question has become how to effect a more balanced approach: to provide adolescents with effective, empirically tested intervention, treatment, and management strategies while ensuring the community's safety.

JUVENILE SEX OFFENDING

Adolescents do commit a significant number of illegal acts. From 1986 to 1995, there was a 98 percent increase in the number of delinquency cases involving offenses against persons.[12] Reported assaults, homicides, and violent sexual offenses committed by adolescents all increased significantly over that time.[13] In 1995, adolescents committed a total of 1,714,300 identified criminal offenses. Specifically, adolescent offenders committed nearly 16,000 sexual assaults.[14]

Possibly because of this increase in violent behavior, especially sexual assaults, by young offenders, research in the mid-eighties devoted much attention to this population. One study based on clinical experience documented that juveniles at that time constituted 40 percent of the total number of arrests for sexual offenses (excluding prostitution).[15] Male adolescents may have committed 20 percent of forcible rapes in this country and 30 to 50 percent of all childhood sexual assaults.[16] In 1986, adolescent males accounted for 19 percent of arrests for forcible rape and 18 percent for other sexual offenses.[17] More recent studies identified juveniles as committing as many as 13 percent to 16 percent of rapes and 18 percent of other sexual assaults.[18] In addition, adolescent offenders were found to be responsible for more than 50 percent of the identified sexual abuse of boys and at least 25 to 30 percent of identified sexual abuse of girls.[19]

These statistics provide only an approximation of the numbers of sexual offenses committed by adolescents; reliance on reported cases probably leads to underestimation of the true incidence. Moreover, because of inconsistencies in definition, failure to include all sources of reports in some statistics, and reticence of victims and their families to report sexual offenses, exact numbers are impossible to calculate.[20]

CHARACTERISTICS OF SEXUALLY ABUSIVE YOUTH

Research regarding sexually abusive youth has primarily focused on population characteristics and basic categorization. Initially, researchers conducted studies of demographic characteristics, psychological factors, levels of hostility, cognitive distortions, sexual and physical abuse histories, referring and previous offense history, and other delinquent behaviors to describe the population and define the problem.

CATEGORIZATION

Many research efforts have focused on identifying similarities and differences among juveniles who commit sexual offenses. One influential way to categorize adolescent offenders is to distinguish youth who molest younger children from those who assault others their age or older. Judith Becker, for example, identifies four types of offenders. Most offenders share characteristics from each category:

- The youth with a well-established deviant pattern of sexual arousal
- The antisocial youth whose sexual assaultive behavior is only one modality of exploiting others
- The adolescent with a psychiatric condition that compromises his or her ability to regulate and inhibit aggressive and sexual impulses
- The youth who lacks adequate social and interpersonal skills and, therefore, turns to younger children for sexual gratification and social interaction[21]

In 1986, O'Brien and Bera developed a separate typology of adolescent offenders consisting of seven distinct categories.[22] Each category describes the offending behavior and considers motivational, psychological, and situational factors that contribute to it. The categories range from the younger adolescent who attempts to explore and experiment with developing sexual feelings to the adolescent who displays an acute psychotic disorder and has a history of psychological, family, and substance abuse problems that contribute to more aggressive sexual behavior.

Whereas adolescents who sexually offend were once considered a homogeneous group, these and other research efforts regarding this population indicate otherwise. Adequate assessment of each individual is needed to accurately plan for treatment and rehabilitation.[23] Once the different types of sexually abusive adolescent have been more clearly defined and categorized, researchers and clinicians can develop additional theories to explain sexually deviant

behavior and further assist in the development of treatment or rehabilitation options.

DEMOGRAPHIC CHARACTERISTICS OF OFFENDERS AND VICTIMS

The modal age of male adolescents referred for offense-specific treatment in a recent national sample was 14 years.[24] In earlier work, Groth, Longo, and McFadin had found the mean age of youth referred for the first time for a sexual offense to be 16.[25] In studies assessing offender characteristics, the mean age of the 305 offenders was 14.8.[26] Another study found a median age of 14.7 years in its sample of 221 sexually abusive adolescents.[27] Therefore, the average age of adolescents being identified for sexual offenses during the eighties and nineties appears to be 14 to 16 years. Today, it is not uncommon for significantly younger adolescents and even prepubescent children to be identified and referred for sexually abusive behavior.

Sexually abusive youth typically come from dysfunctional families. Often, these adolescents have experienced a history of abuse, both sexual and physical. Even more often, they have experienced neglect, loss of a parent, disruptions of care, or domestic violence. One study found that 11 percent of the young offenders had been sexually abused and that 16 percent had been physically abused.[28] Another study, which included sexually abusive youth who had been abused, found that 19.8 percent had been sexually abused and that 54.2 percent had been physically abused.[29] Another study found that 62 percent of intrafamilial offenders had been sexually abused, with 53 percent of this group having been abused by relatives.[30] Fifty-one percent of extrafamilial offenders had been sexually abused, and about half of this group had been abused by a relative.[31] Other researchers found that a similar percentage (42 percent) of adolescent sexual offenders were sexually abused prior to committing their offenses. The majority (66 percent) of the abusers of these adolescents were unrelated males; in 11 percent of the cases, the perpetrator was unknown.[32] Physical abuse was reported by 47 percent of the adolescents in this study.[33] Evidence also indicates that adolescent molesters have been sexually victimized more often than adolescent rapists or nonsexual violent offenders and have experienced significantly higher levels of family violence.[34] Most recently, in prospective studies of child victims of abuse and neglect, researchers found that neglected children became sexual perpetrators more often than children who had been physically or sexually abused.[35] Children who had been physically abused or sexually abused were equally likely to perpetrate abuse as adolescents.

Adolescents are most likely to sexually assault younger children.[36] In a national sample of 1,616 male youths with sexual offenses, 63 percent had victims younger than 9 years of age.[37] The most frequently reported age was 6 years old. Although many had only one identified victim, some had many, so the average number of victims per offender was 7.7. Almost 26 percent of this sample had committed some sexually abusive behavior before the age of 12. Only 7.5 percent of this sample had previously been charged with a sexual offense. One review of the literature on sexual offenses committed by adolescents reported that between 46 percent and 66 percent had victims under 10 years old.[38] Another study reported that 61.6 percent had victims under the age of 12 and that 43.8 percent had victims under 6 years old.[39] Overall, the majority of victims of sexually abusive adolescents most often are between the ages of 6 and 12 years.[40]

Most sexual assault victims are female. One group of researchers reported that 72 percent of abusers admitted having assaulted females, 18 percent admitted having assaulted males, and 10 percent admitted having abused both male and female victims.[41] This is consistent with two other studies that found percentages of female victims to be 68 percent and 77 percent respectively.[42] Victims who are as old as or older than their abusers are likely to be female. As the age of the victim decreases, the likelihood that the victim is male increases. Young sexual assault victims are predominantly male.[43] Another study of adolescent sexual offenders confirms this pattern. All but 3 of the 34 sexual offenders in this study who had male victims assaulted male children.[44]

Most victims were known to the sexually abusive youth; in fact, victims are usually related to their abusers.[45] One study found that rape of younger children unknown to the sexually abusive adolescent was rare.[46] Forty percent of child victims of rape were relatives of the youth who perpetrated the abuse, and 57 percent of child victims of rape were acquaintances. The majority of victims of "indecent liberties," offenses such as fondling and sexual touching but not penetration, also were relatives and acquaintances of the sexually abusive adolescent.

The finding that most victims were known to the abusing youth presents a serious problem: not only are young children being victimized, but the cycle of sexual abuse also appears to have a very early onset. It is likely that some of these young sexual assault victims will continue the cycle by going on to commit sexual offenses as they get older. Therefore, this probability must be considered when developing treatment options and policy recommendations regarding sexually abusive youth.

TREATMENT OF SEXUALLY ABUSIVE YOUTH

Treatment programs only began to develop throughout the states in the mid-eighties. Prior to the eighties, adolescents who committed sexual offenses were often diagnosed as having an "adolescent adjustment reaction"[47] or were considered simply to be experimenting sexually in the course of entering puberty. Few states provided treatment programs for sexually abusive youth. One particular study surveyed state-operated treatment programs for adolescent sexual offenders and found that the earliest program began in 1979. Eighteen of the 30 programs participating in the study began in 1985. The majority of these programs imposed mandatory treatment, including sex education, group and individual counseling, victim empathy development, understanding of thinking errors that contributed to the sexual offenses, assertiveness training, and social skills acquisition training.[48]

The number of treatment programs has increased significantly in the last 20 years, as has the research devoted to empirical exploration of the consequences of specific treatment modalities for sexually abusive youth. There are now believed to be over 800 treatment programs specifically designed for adolescents who sexually offend.[49]

TREATMENT GOALS

The National Adolescent Perpetration Network (NAPN) is a network of more than 900 multidisciplinary professionals from programs across the country providing treatment and interventions to sexually abusive youth.[50] Articulating the consensus of the organization, the NAPN's 1993 *Revised Report* suggests that the goals of treatment plans for sexually abusive youth should include (1) identifying the sexual abuse cycle and patterns associated with abusive behavior; (2) facilitating the abuser's acceptance of responsibility for abusive behavior; (3) addressing offenders' own experiences of loss, trauma, and victimization; (4) helping the abuser develop empathy with his or her victim; (5) helping the abuser reduce instances of deviant sexual arousal; (6) identifying the abuser's cognitive distortions, irrational thinking, or "thinking errors"; and (7) encouraging the abuser to develop appropriate relationships with others.[51]

The majority of treatment programs employ cognitive-behavioral interventions to seek the long-term goals suggested by the NAPN report.[52] The treatment goals of these programs include (1) reducing denial and increasing accountability, (2) increasing empathy for victims, (3) facilitating the attainment of insight into motives for sexual offenses, (4) assisting youth in understanding their own victimization, (5) providing sex education, (6) decreasing the use of thinking errors that contributed to the sexual abuse, (7) developing appropriate interpersonal and social skills, (8) learning anger management skills, and (9) providing family therapy to address family dysfunction and facilitate the reintegration of youth who have been placed back into the family.[53]

Joyce Lakey, a social worker who has treated adolescent male sex offenders, has recommended additional guidelines for the treatment of sexually abusive youth. She makes prevention of reoffending the primary goal of treatment. She emphasizes that, to reach this goal, youth in treatment must accept responsibility for their offenses and identify the events, thoughts, and feelings that were precursors to their sexually abusive behaviors. Deviant sexual fantasies and masturbatory practices need to be altered, and offenders must gain control over their impulses and learn to effectively manage their anger. As did others, Lakey emphasized the need for the adolescents to develop empathy for victims and become aware of how their actions can affect others.[54]

Today, treatment is provided in many forms. Treatment programs offer group, family, and individual counseling, sex education, and psychological assessments.[55] Despite their different focuses, most programs for sexually abusive adolescents include the same three basic elements: a cognitive-behavioral framework, a relapse-prevention program, and psychosocial-educational model. The cognitive-behavioral approach is based on the belief that behavior results from experience and aims to restructure the erroneous thinking and deviant behaviors that ultimately led to the sexually abusive behaviors. A relapse-prevention program teaches self-management skills to assist the youth in identifying and interrupting the chain of events that may lead to a relapse of sexual offending. Basically, this program entails teaching the youth to recognize the specific factors that contributed to their sexually abusive behavior and, in response, to use newly taught skills to avoid repeating this behavior. The psychosocial-educational model uses peer groups, educational classes, and social skills development in treatment.[56] Percentages of more specific treatment modalities were obtained in one survey of treatment providers. Development of victim empathy (96 percent), anger management (94 percent), sex education (93 percent), social skills training (92 percent), and reduction of thinking errors (88 percent) were the most frequently implemented modalities.[57] These results vary somewhat from those of a previous study, in which sex education was used by 97 percent of respondents' programs, development of victim empathy by 93 percent, social skills training by 87 percent, anger management by

43 percent, and identification of thinking errors by 23 percent.[58]

Most recently, innovative treatment programs have incorporated developmental, contextual, and ecological approaches. Programs have also become more aware of the need to increase the resources that can moderate the risks in an adolescent's life and functioning. Increasing personal competence and providing positive social experiences and a supportive environment at home, at school, and with peers have been shown to reduce the risk of delinquency and dysfunction for all youth. An evolving consensus has developed among professionals working with sexually abusive youth that a holistic and individualized treatment approach may improve outcomes for these young people.[59]

ASSESSING TREATMENT EFFECTIVENESS: RISK FOR REOFFENSE

One method of assessing the effectiveness of treatment on sexually abusive youth is to review recidivism rates. This method is inadequate because reports of recidivism often reflect only those adolescents who are arrested for sexual offenses and then reported to a correctional agency or those who are followed on a short-term basis.[60] Such recidivism studies, however, can be used as a guide on which to base further research. They indicate trends and allow comparisons between types of sexually abusive youths. Recidivism studies also provide a general picture of what sexually abusive youth do following treatment.

Overall, recidivism rates of adolescent sexual offenders are low for repeat sexual offenses but can be significantly higher for nonsexual offenses.[61] Recidivism rates for sexual offenses range from 3 to 16 percent,[62] but 10 percent is believed to be the typical recidivism rate for sexually abusive youth.[63] However, recidivism rates for sexual offenses ranged from 8 to 37 percent in the seven studies discussed in Righthand and Welch's review of the literature on recidivism rates. Rates for nonsexual offenses ranged from 16 to 54 percent.[64] Alexander reviewed data from eight follow-up studies and found that the combined recidivism rate in the adolescent sexual offender population was 7.1 percent.[65] Worling and Curwen compared sexually abusive youth who had successfully completed treatment with those who had not entered treatment or had dropped out prematurely. In comparison with the untreated sample, they found a 72 percent reduction in sexual recidivism in the treated group along with a 41 percent reduction in nonsexual violence charges and a 59 percent reduction in nonviolence/nonsexual charges.[66]

In some cases, however, methodological flaws and small sample sizes render estimates based on previous research unreliable. Even so, providers tend to overpredict the risk in individual cases because they have not had valid tools for risk prediction. Further research that is empirically sound will enhance our ability to accurately determine the rate of reoffending in this young population.

OTHER DIFFERENCES BETWEEN ADULT SEX OFFENDERS AND SEXUALLY ABUSIVE YOUTH

During the eighties and early nineties, much of what had been learned about the assessment, treatment, and management of the adult sex offender was applied to interventions with sexually abusive youth.[67] Certainly, one of the predominant assumptions was "once a sex offender, always a sex offender." The data on recidivism cited above indicate that there is no evidence to support this assumption in the case of sexually abusive youth.[68] Some authors, having reviewed the data on recidivism, suggest that there appears to be a significant subgroup of sexually abusive adolescents who do not persist into adulthood.[69] Becker and Kaplan hypothesized the following three paths for a youth following a first sex offense: (1) a dead end (no further crimes), (2) a general delinquency path, and (3) a sexual-interest path involving continued sexual offending and, in some cases, the development of deviant sexual arousal patterns.[70]

The Association for the Treatment of Sexual Abusers (ATSA), in a 2000 position paper, identified "important distinctions" between sexually abusive youth and adult sex offenders. These included a "significantly lower frequency of more extreme forms of sexual aggression, fantasy, and compulsivity among juveniles than adults."[71] Psychosocial deficits such as low self-esteem, poor social skills, and pervasive inadequacy were cited as more likely explanations for sexually abusive behavior in juveniles in contrast to the paraphilic interests and psychopathic characteristics that are more common in adult offenders.[72]

Moreover, according to Ryan, sexually abusive youth differ from their adult counterparts in the areas of growth and development. Whereas the personality characteristics and behaviors of adults are generally stable over time, children and adolescents are still learning about themselves and the world and are in the process of growing and developing.[73] The treatment of sexually abusive youth "can capitalize on their developmental immaturity.... [W]ith a combination of new growth and new experiences, many youth can return to health."[74] Clearly, the research cited above provides the basis for the growing consensus that sexually abusive youth are more amenable to treatment than adults and that recidivism rates can be significantly reduced by the successful completion of specialized treatment.[75]

LEGAL ATTEMPTS TO ADDRESS YOUTH OFFENDING

In response to the rise in violent acts committed by children and youth, more than 45 states have made substantive changes to their criminal and juvenile laws. Most of these reforms—including juvenile court waivers, resulting in more juveniles being tried as adults; stricter sentencing guidelines; changes in the confidentiality of juvenile records; registration requirements; and community notification requirements[76]—have focused on protecting the community by punishing and monitoring youth, rather than by rehabilitating them. Many cities and counties have adopted additional responses. For example, within the last two years in Colorado, many counties surrounding Denver have passed residential zoning ordinances that forbid more than one person on the sex offender registry from living in the same home in a residential zone.[77] These ordinances apply to foster homes, group homes, and other residential treatment facilities. As a result of these ordinances, specialized residential treatment facilities may be required to move or to exclude the youth they specialize in treating. In one case, a facility was forced to move from the neighborhood in which it had operated for more than 10 years even though there was no evidence that it had compromised community safety.

Related specifically to registration and community notification, the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act was enacted in 1994.[78] The Jacob Wetterling Act is a federal law passed after 11-year-old Jacob Wetterling was kidnapped in 1989. He has never been found. This act required all states to implement registration programs for sex offenders, including the identification and registration of lifelong sexual predators. Megan's Law, passed in 1996, amended the Jacob Wetterling Act to mandate that all states develop notification protocols to allow public access to information about sex offenders in the community.[79] Megan's Law was passed after 7-year-old Megan Kanka was raped and murdered by a twice-convicted child molester who was living in her neighborhood. Congress consulted neither professionals working in the area of sexual abuse nor organizations focused on the problem of sexual aggression (for example, ATSA, NAPN, the American Professional Society on the Abuse of Children) prior to the passage of these laws.[80] Had they done so, the laws might have more effectively addressed the unique problems of young abusers.[81]

As initially written, community notification laws were designed to ensure that community members would be informed of potentially dangerous sex offenders residing in their communities.[82] The federal guidelines allow the states discretion in their application of the notification requirements.[83] The state law enforcement agency designated to enforce the requirements is responsible for deciding what information is relevant and necessary to protect the public from a specific person who is required to register. This local responsibility permits flexibility in the categories of offenders who are subject to notification and in the scope, form, and content of the notification. For example, different states use different methods of notification, including media release, door-to-door distribution of notices, mailed or posted fliers, accessible registration lists, Internet registries, and community meetings.

Most states require notification for sexually violent offenses and sexual offenses involving a victim who is a minor. Typically, these states' registries do not differentiate between high- and low-risk offenders. Even though federal law does not require registration or notification regarding juveniles who commit sex offenses, adolescents adjudicated or convicted of a sexual offense are currently required to register in 28 states.[84]

EFFECTIVENESS OF NOTIFICATION LAWS

Little research has been conducted to determine which approaches to community notification are most effective or whether notification is effective at all in reducing recidivism and increasing community safety.[85] The State of Washington conducted a 54-month study to measure the impact of community notification on recidivism and found that the difference in recidivism between the notification and comparison groups was not statistically significant.[86]

Meanwhile, research has identified a number of problems with and "unintended consequences" of public notification.[87] These include its potential harm both to innocent persons who are not sexual abusers and to actual offenders identified under the law. For example, families have been harassed, offenders have been unable to find housing and have been the victims of vigilantism and harassment, and victims of sexually abusive behavior have been identified.[88] In the last case, an offender who abused a family member may be required to submit to comprehensive community notification, possibly revealing the victim's or family's identity and potentially resulting in further victimization.[89] Reports from New Jersey and Colorado indicate that offenders' family members and victims have reported fewer juvenile sex offenses and incest offenses to avoid the impact of public notification on their families.[90] One of the unintended consequences of notification laws in New Jersey has been a reluctance to prosecute juveniles for sex offenses so they will not be subjected to lifelong registration. Consequently, some sexually

abusive youth are not receiving needed specialized treatment. For the same reasons, social workers and child protection workers in several states are sometimes reluctant to report cases involving sexually abusive behavior by adolescents. These youth are instead "quietly and privately" referred to sex offender treatment specialists without legal intervention.[91]

These instances point out the difficult ethical dilemmas that treatment providers face. They may have a solid basis for believing that their clients do not constitute a threat to community safety while also believing that conforming to certain laws and policies will result in harm to their clients. In these cases, the ethical dilemma does not arise out of any tension between community safety and the welfare of the adolescent. Rather, the dilemma arises because the law's *method* of protecting the community may unnecessarily harm the youth.

Legal and constitutional issues leave many of these laws and ordinances in a sort of legal limbo. Community notification laws have been challenged on the grounds that they violate basic constitutional guarantees of fair notice, due process, privacy, and equal protection as well as the prohibitions against ex post facto laws and double jeopardy.[92] A Colorado county district court recently overturned a zoning ordinance similar to the one cited above[93] that forbids more than one person on the sex offender registry from living in the same home in a single residential zone. In this case, the foster mother of two sexually abusive children challenged it. The court held that the ordinance violated the constitutional rights to freedom of association and to personal choice in family matters. The court also held that the ordinance violated the federal Fair Housing Act.[94]

PUBLIC POLICY AND WHAT WE KNOW ABOUT SEXUALLY ABUSIVE YOUTH: MOVING IN OPPOSITE DIRECTIONS

Public policy has continued to become increasingly punitive and less rehabilitative. As discussed in this article, however, evidence exists to contradict the old assumption "once a sex offender, always a sex offender" in the case of juvenile sexual offending. To forgo rehabilitation based on that faulty assumption is to waste an opportunity to add productive members to the community we are trying to protect. It is clear that sexually abusive youth are very heterogeneous in terms of their characteristics, reoffense risk, and treatment needs. Nevertheless, certain distinctions from adult offenders seem to hold true across the board. The most significant differences between young and adult sex offenders, discussed above, support a growing research-based consensus that sexually abusive youth are more amenable to treatment and that successful completion of specialized treatment can significantly reduce recidivism among young offenders.

Much of the extreme public sentiment that has driven changes in the law reflects misinformation and ignorance about the different risks, treatment needs, and responses to treatment that exist with juvenile offenders. For example, when evaluating the issue of broad community notification, it is important to consider the impact that this notification may have on sexually abusive youth. In the research that John Hunter has been conducting to develop a typology of sexually abusive adolescents, he states that abusers of children "may be youths who lack the self-confidence and social skills to successfully attract and interpersonally engage same-age females."[95] Furthermore, ATSA describes community notification involving juvenile offenders as "likely to stigmatize the adolescent, fostering peer rejection, isolation, increased anger, and consequences for the juvenile's family."[96] The peer rejection and isolation that could result from broad community notification might actually increase the risk of recidivism among sexually abusive youth whose impaired social and interpersonal skills were a contributing factor in turning to younger children for sexual gratification and social interaction.

Moreover, Hunter and Lexier posit that punitive policies could interfere with treatment. They suggest that the new legislative mandates "may make it more difficult to clinically discern whether clients' denial is indicative of character pathology and thus of a poor treatment prognosis or of anxiety and realistic fear of the emotional and legal consequences associated with full disclosure."[97] This concern is well founded.

RECOMMENDATIONS REGARDING ASSESSMENT, TREATMENT, AND MANAGEMENT OF SEXUALLY ABUSIVE YOUTH

Returning to the original question, how can the pendulum effect be eliminated so that professionals are able to implement empirically validated intervention, treatment, and management strategies while at the same time ensuring the safety of the community? Juvenile justice and treatment systems must protect the community, respect the rights and welfare of all children and adolescents, and support low- to moderate-risk youth to return to a more healthy and nonabusive developmental path.

We already know a great deal about accomplishing this complex task. Research, continually updated, should guide clinical and legal interventions with sexually abusive

youth. Responses regarding the intervention, treatment, and management of sexually abusive youth must be based on differential assessment of the individual characteristics of each youth. A continuum of services should be available in every community that provides the appropriate level of care based on the level of risk and treatment needs of the sexually abusive youth.[98] This continuum of services should include

- community-based treatment with specialized outpatient treatment and short-term psycho-educational programs
- home-based services while the youth is attending specialized outpatient treatment
- therapeutic foster-care homes that are trained to manage sexually abusive youth while they attend specialized outpatient treatment
- specialized group homes designed to manage sexually abusive youth while they attend specialized outpatient treatment
- residential treatment centers with varying degrees of security and specialized treatment programs for sexually abusive youth
- high-security youth corrections facilities with specialized treatment for sexually abusive youth
- posttreatment support systems
- supervised apartments

The continuum of services should provide for a consistent treatment orientation and philosophy and for effective communication among treatment providers as the youth moves to less restrictive levels of care. Treatment should be provided at the least restrictive setting possible based on consideration of community safety and the youth's individual treatment needs. Community safety should always take precedence in cases in which treatment needs and community safety conflict and cannot be reconciled.

The National Task Force on Juvenile Sexual Offending has pointed out the difficulties, such as insufficient facilities for placement, of implementing an ideal continuum of care.[99] In these cases, it is important that the lack of placement options be documented in order to justify the need for additional resources. It is also unrealistic to expect that all communities will be able to fund a comprehensive continuum of care for sexually abusive youth. In the absence of a comprehensive continuum of care, it is important to use flexibility and creativity in providing treatment interventions in ways that meet the individual treatment needs of youth and at the same time ensure that community safety is not jeopardized.

As noted earlier, sexually abusive youth constitute a heterogeneous population. To enhance our ability to provide differential diagnosis and treatment, we must continue the encouraging research directed at creating a juvenile sexual offender typology and then linking offender classification with risk assessment and treatment needs.[100] This typology should attempt to differentiate clearly between those youth who have committed sex offenses exclusively and those who commit sexual abuse as a part of a larger pattern of both sexual and nonsexual delinquent behavior.[101] The development of this typology supports the use of a more fine grained approach to treating young sex offenders than the "one-size-fits-all" approach still prevalent.[102]

The Juvenile Sex Offender Assessment Protocol (J-SOAP),[103] developed by Robert Prentky and Sue Righthand, and the Estimate of Risk of Adolescent Sexual Offense Recidivism (ERASOR),[104] developed by James Worling and Tracey Curwen, reflect promising recent gains in attempts to formulate standardized risk assessment instruments. To the degree that we can identify those youth who clearly present an ongoing danger to the community, management strategies can be designed to address this segment of sexually abusive youth.

In advocating for the effective management of sexually abusive youth, the Association for the Treatment of Sexual Abusers suggests the following in regard to community notification: "Until research has demonstrated the protective efficacy of notification with juveniles and explored the impact of notification on the youth, their families and the community, notification—if imposed at all for juveniles—should be done conscientiously, cautiously, and selectively."[105]

ATSA recommends community notification in "only the most extreme cases" based on a risk assessment by a skilled and trained professional. Enhanced community monitoring and supervision provide better means of enhancing community safety than does notification.[106] Indeed, a previous study found that community notification did not have a significant impact on recidivism.[107]

Enhanced community monitoring and supervision can be provided in an effective manner by using the external supervision component of the relapse prevention model. The relapse prevention model, although originally developed to address substance abuse problems, has increasingly been found effective in addressing other dysfunctional and abusive patterns of behavior, including sexually abusive behavior.[108] When the youth has successfully completed the internal self-management components of his

treatment, the external supervision component of relapse prevention focuses on the following goals:[109]

- Enhancing the effectiveness of supervision by monitoring specific risk factors that are related to the youth's abusive behaviors
- Increasing the efficiency of supervision by creating an informed network of collateral contacts that assist the case manager in monitoring the youth's behavior. The youth is expected to inform all members of this community support and supervision team of his high-risk factors and of the cognitive, social, and problem-solving skills that he will utilize in order to reduce his risk of relapse
- Creating a collaborative relationship between the professionals providing transition and after-care services to the youth

This collaborative approach is further supported by the Center for Sex Offender Management:

> To strengthen the offender's internal control and impose external controls on his behavior, offenders are best managed by multidisciplinary teams that include, at a minimum, supervising probation or parole agents and treatment providers who work together to individualize the supervision and treatment plans according to unique challenges faced by and posed by a specific offender. Research and experience indicates that victim and community safety is best achieved when parole and probation agents and treatment providers work with advocates for victims and community members in supervising individual offenders. Thus, collaboration is an important principle in sex offender management.[110]

It could be argued that this scheme represents a form of "notification" that serves the best interests of both the youth and the community.

Multisystemic therapy (MST) is an intensive family- and community-based treatment model that has demonstrated positive results in one study involving sexually abusive adolescents.[111] MST is designed to intervene in the multiple systems in which dysfunctional patterns of interactions may be evident, including family, peer group, and school. MST could be integrated into a collaborative multidisciplinary approach in order to further enhance community supervision and monitoring.

Robert Freeman-Longo has identified numerous instances in which reactive and rigid laws and policies resulted in unwarranted harm. For example, an 18-year-old male in Michigan was convicted of indecent exposure after engaging in a senior prank that involved "mooning" the school principal. He was required to register as a sex offender for 25 years and subjected to community notification. In some states, even normative, consensual sexual behavior is illegal for juveniles and has resulted in charges being pressed, which can also trigger sex offender registration.[112] These cases and many others point out the need for some degree of judicial discretion in the disposition of cases involving sex offenses. Trained and well-qualified evaluators could assist judges and magistrates in the disposition of these cases.

Much of our public policy in response to sexually abusive behavior by adolescents is tertiary prevention—that is, it is designed to prevent the continuation of sexually abusive behavior by an identified perpetrator. Although these efforts are important and necessary, the best approach in addressing sexual abuse is primary prevention: to prevent it before it begins. Secondary prevention efforts designed to intervene with children known to be at increased risk to develop sexually abusive patterns of behavior should also receive more time, energy, and resources.[113]

Primary prevention involves a clear understanding of what the problem is. Without this understanding, preventive efforts are futile. One agency in Denver has made a significant impact in training treatment providers to recognize what constitutes normative sexual behavior in children and adolescents versus behavior that is coercive or developmentally inappropriate.[114] These training workshops focused on assisting adults to recognize that sexual behavior alone is not deviant, but that the nature of the interaction between the parties involved will reflect whether sexual abuse is occurring. Factors to consider when evaluating whether abusive sexual behavior occurred include the presence or absence of coercion, consent, and equality between the parties. Adults working with children and adolescents need to become knowledgeable about normative sexual behavior and behavior that may constitute a red flag. Further training, not only of treatment providers but also of educators and parents, will assist in the area of primary prevention.

In addition to understanding what defines sexually problematic or abusive behaviors, treatment providers, educators, and other adults working with youth need to understand the factors that may increase the risk of sexually abusive behavior. There is well-documented evidence in the literature regarding the etiological antecedents in the early childhood of sexually abusive youth. This information needs to be communicated to those working with youth. Treatment should not only focus on understanding unhealthy and abusive sexual behavior, but it should also assist in the development of adequate coping responses to stressors experienced in the youth's environment. We

know that many sexually abusive adolescents come from families and environments that can be both chaotic and abusive. Additional efforts should be made to assist families to find help once the abuse is discovered as well as to help family members understand the difference between normative sexual play between children and abusive sexual behaviors.

To counter community fear and anger, community members must be educated about sexually abusive youth in the following areas:

- Differentiating sexually abusive youth from adults in terms of the characteristics of the offender, types of offenses, risk of reoffense, and response to treatment
- How ostracizing or harassing sexually abusive youth can stand in the way of successful reintegration into the community[115]
- Understanding that sexually abusive youth will and do live in their communities and that it is in their best interest to see these youth succeed.[116] The ultimate goal of no new victims requires a supportive and caring community

These goals will not be easy to achieve. In the case of residential facilities, communities need to be educated about and experience programs that succeed without jeopardizing community safety. Residential programs should provide forums for education and dialogue with the surrounding neighborhood and be responsive to community concerns. One Colorado facility actually invited neighbors into the facility before it opened.

It is evident that adolescents commit a significant number of sexual assaults. Certainly there is a need for treatment professionals and policymakers to work together to develop effective and conscientious responses to this problem. Moreover, the broader issues regarding constitutional guarantees need to be addressed by the federal court system and the U.S. Supreme Court.[117] Enhanced community safety and respect for the rights and welfare of all of our youth and families do not need to be mutually exclusive goals. It is in all of our best interests to eliminate the pendulum effect.

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interventions with those youth who truly do exhibit risk of continuing their sexually abusive behavior into adulthood. They also argue, as noted earlier, that the rights and welfare of children should be considered before responding to their behavior. *See* Chaffin & Bonner, *supra* note 7, at 315–16.

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